

1 Brad Seligman (SBN 083838)
bseligman@impactfund.org
2 Jocelyn D. Larkin (SBN 110817)
IMPACT FUND
3 125 University Ave., Suite 102
Berkeley, CA 94710
4 Telephone: (510) 845-3473
Facsimile: (510) 845-3654

5 Attorneys for Plaintiffs and the Certified Class

6 [Additional counsel listed on last page]

James V. Fitzgerald, III (SBN 55632)
Thomas G. Beatty (SBN 75794)
McNAMARA, NEY, BEATTY, SLATTERY,
BORGES & AMBACHER LLP
1211 Newell Avenue, P.O. Box 5288
Walnut Creek, CA 94596
Telephone: 925.939.5530
Facsimile: 925.939.0203

7
8
9
10
11 Attorneys for Defendant
12 CITY OF ANTIOCH

13
14
15
16
17
18
19
20
21
22
UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SANTEYA DANYELL WILLIAMS, MARY)
RUTH SCOTT, KAREN LATREECE)
COLEMAN, PRISCILLA BUNTON, and)
ALYCE DENISE PAYNE, on behalf of)
themselves and all others similarly situated,

) Case No.: C-08-2301 SBA
)
)
)
)
)
)
**JOINT MOTION IN SUPPORT OF
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Plaintiffs,

vs.

CITY OF ANTIOCH,

Defendant.

The parties have reached a class action settlement of this matter, a copy of which is attached as Appendix A to this motion. The parties jointly move for an order preliminarily approving this class action settlement and the proposed class notice plan. This motion is based on this Motion, and the accompanying declaration of Brad Seligman, and the proposed Order.

1 **I. INTRODUCTION**

2 This lawsuit was filed as a class action in July 2008 by five African-American women
 3 participating in the Section 8 Housing Choice Voucher program. The lawsuit alleges that the
 4 City of Antioch and its Police Department (collectively, “Antioch”) discriminated against
 5 African-American Section 8 families based on their race and Section 8 status. Plaintiffs sought
 6 damages and injunctive relief.

7 Antioch denies the allegations of the lawsuit, denies that it has discriminated on the basis
 8 of race or Section 8 status, and alleges that CAT has been engaged in legitimate community
 9 policing efforts intended to ensure the safety and well-being of its citizens. Antioch further
 10 denies that plaintiffs have suffered any injury as a result of defendant’s conduct.

11 The parties engaged in extensive settlement negotiations after significant class
 12 certification discovery and motion practice. A settlement agreement has been reached and,
 13 together, the parties seek this Court’s preliminary approval of the agreement and of the class
 14 notice plan.

15 **II. STATEMENT OF FACTS**

16 **a. History of Litigation**

17 Plaintiffs filed this class action lawsuit against Antioch in the United States District
 18 Court for the Northern District of California, Case No. C08-2301 SBA, alleging among other
 19 claims, intentional discrimination based on race and Section 8 status, and discrimination based
 20 on the disparate statistical impact of CAT’s policies on African-American Section 8 subsidy
 21 recipients. Plaintiffs sought individual damages and declaratory and injunctive relief on behalf
 22 of a class of similarly situated African-American Section 8 residents in Antioch. The First
 23 Amended Complaint also sought statutory damages for the class under the Bane Act (California
 24 Civil Code §52.1).

25 Antioch denied the allegations and disputed that any relief was justified, maintaining
 26 that the Antioch Police Department, including the police department’s Community Action
 27 Team, was focused on responding to complaints regarding nuisance, crime, and drug activity.

1 The parties undertook substantial pre-class certification discovery, including more than
 2 two dozen depositions, and extensive document and data discovery. In addition, the parties
 3 proffered numerous expert witness reports. Plaintiffs filed a motion for class certification on
 4 October 26, 2009, pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(2). In response,
 5 Defendant filed an opposition to the motion for certification, as well as a motion for a judgment
 6 on the pleadings to dismiss the damage claims under the Banc Act for Plaintiff Priscilla Bunton
 7 and the class, on the grounds that there had been a failure to comply with the Government Tort
 8 Claims Act.

9 On September 2, 2010, the Court ruled on the respective motions. The court granted
 10 Plaintiffs' motion to certify the class, defined as "all African-Americans who have held,
 11 currently hold, or may hold Section 8 housing vouchers, and all members of their households,
 12 who reside, have resided or will reside, in the City of Antioch." The Court then granted
 13 Defendant's motion, dismissing claims for statutory damages for Bunton and the class.

14 **b. Settlement Negotiations**

15 The parties attended two settlement conferences before then-Magistrate Judge James Larson
 16 on August 18, 2009 and May 18, 2011. On September 29, 2011, the parties met for a third
 17 extended mediation session at Judge Larson's private offices. Negotiations continued thereafter
 18 with telephone communications assisted by Judge Larson for several weeks. Once an
 19 agreement in principle was reached, the parties exchanged multiple drafts and met both in
 20 person and over the telephone and e-mail to reach a final agreement. The Settlement
 21 Agreement provides for a final and negotiated resolution of Plaintiffs' damages claims, class
 22 injunctive relief and attorneys' fees and costs.

23 **III. SUMMARY OF SETTLEMENT TERMS**

24 The Settlement, which is attached to this motion as Appendix A, provides, in summary, that:

- 25 1. The City of Antioch will not publicly identify African-American Section 8 recipients,
 26 except as allowed in ¶ 1c. Agreement at ¶ 1b.
 27 2. The City of Antioch will not focus on African-American Section 8 recipients on either

1 the basis of their race or Section 8 status in its policing efforts, except when race is used
2 specifically to identify a suspect. Agreement at ¶ 1e.

3 3. The Antioch Police Department will send copies of any communications it sends to the
4 Housing Authority of Contra Costa County regarding complaints about identified Section
5 8 recipients to the Impact Fund for three years. Agreement at ¶ 1c.

6 4. The City of Antioch will not retaliate against the five named Plaintiffs or those family
7 members of the Plaintiffs approved to live in their household by the Housing Authority.
8 Agreement at ¶ 1d

9 5. Plaintiffs will dismiss this case with prejudice within 30 days of the Court's final
10 approval order of the Settlement. Agreement at ¶4.

11 6. The Court will retain jurisdiction to enforce the Settlement and consider claims of
12 violations of the Settlement for three years following the Final Approval Order. Any
13 disputes arising under the Settlement will be heard by Magistrate Judge Jacqueline
14 Corley. Agreement at ¶4.

15 7. The City of Antioch will pay \$180,000.00, to be divided equally among the five named
16 Plaintiffs. Agreement at ¶1a.

17 8. Defendant has agreed to pay Plaintiffs' counsel in partial compensation for attorneys'
18 fees and costs of the Civil Action in the sum of \$180,000.00. Agreement at ¶11.

19 9. The five Named Plaintiffs release and settle all of their claims against the City arising out
20 of the action. Class members who are not Named Plaintiffs release their injunctive and
21 declaratory relief claims, but do not release any individual claims for monetary relief.
22 Agreement at ¶7.

23 **IV. ARGUMENT**

24 The parties believe that this Settlement Agreement meets all the requirements of Federal
25 Rule of Civil Procedure Rule 23(e) and should be approved by this Court.

26 **a. The Settlement Agreement Is Fundamentally Fair, Reasonable and
27 Adequate**

Under Rule 23(c), the question to be decided by this Court is whether this settlement agreement is “fundamentally fair, reasonable, and adequate.” *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1097, 1100 (9th Cir. 2008). To do so, the Ninth Circuit requires that a “court’s intrusion upon what is otherwise a private consensual agreement. . . must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties.” *Officers for Justice v. Civil Service Comm.*, 688 F.2d 615, 625 (9th Cir. 1982). In this task, the trial court must recognize that the settlement is “the offspring of compromise.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998). Thus the question is not whether “the final product could be prettier, smarter or snazzier” but, instead, whether the agreement, as it has been reached, is fair to the class overall. *Id.*; *Officers for Justice*, 688 F.2d at 625 (trial court should not judge the proposed settlement against a speculative measure of what might have been achieved).

Typically, in its evaluation of the proposed settlement, the court will consider several factors. The following elements are often among those weighed in this consideration: (1) the strength of plaintiffs’ case; (2) the risk, expense, complexity and likely duration of further litigation; (3) the extent of discovery completed and the stage of the proceedings; (4) the experience and views of counsel; (5) and the relief offered in the settlement. *Hanlon*, 150 F.3d at 1026; *Officers for Justice*, 688 F.2d at 625. The degree of importance attached to each factor is determined by the nature of the claim brought, the type of relief sought, and the facts and circumstances of the case. *Officers for Justice*, 688 F.2d at 625. While considering these factors, a court should be mindful that “there is a strong judicial policy that favors settlements, particularly where complex class action litigation is concerned.” *In re Syncor ERISA Litig.*, 516 F.3d at 1101; *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (same); *Officers for Justice*, 688 F.2d at 625 (“[V]oluntary conciliation and settlement are the preferred means of dispute resolution.”); *Robinson v. Shelby Cty. Bd. of Educ.*, 566 F.3d 642, 648 (6th Cir. 2009) (“it is also well-established that ‘[p]ublic policy strongly favors settlement of

1 disputes without litigation. . . . Settlement agreements should therefore be upheld whenever
 2 equitable and policy considerations so permit.””) (citation omitted, ellipses in original).¹

3 i. The Settlement Agreement Resolves Heavily Disputed Claims

4 The settlement agreement resolves all claims remaining after the court’s judgment on
 5 the pleadings which precluded class damages in this action. As the class certification motion
 6 papers demonstrated, this was a heavily disputed case, with each side presenting fundamentally
 7 different factual and legal arguments. With class damages precluded, plaintiffs’ primary
 8 concern was how, on an ongoing basis, the Antioch police department’s community policing
 9 efforts impacted African American Section 8 families. In determining whether the settlement is
 10 fair, reasonable and adequate, the “primary concern” of the court is how the substantive terms
 11 of the agreement address plaintiffs’ objections to Antioch’s practices. *Hanlon*, 150 F.3d at
 12 1027 (“Of course it is possible. . .that the settlement could have been better” but proper
 13 settlement requires addressing plaintiffs’ “primary concern” in a fair and adequate manner, free
 14 of collusion).

15 The settlement addressed this primary concern by specifying the parties’ agreement
 16 regarding treatment of the class. Under the agreement, Antioch agrees to not focus on African-
 17 American Section 8 recipients on either the basis of their race or Section 8 status in its policing
 18 efforts. Agreement at ¶1e. Antioch agrees not to publicly identify African American Section 8
 19 recipients. Agreement at ¶1b. Additionally, the Antioch Police Department agrees to submit for
 20 review by one of Plaintiffs’ counsel (The Impact Fund) any complaints about Section 8
 21

22 ¹ Courts generally evaluate settlements in a three-step process: (1) *Preliminary Hearing*. The
 23 court ordinarily holds a preliminary hearing to determine whether there is a likelihood it could
 24 approve the settlement *before* conducting a full “fairness hearing.” *Hanlon*, 150 F.3d at 1026-27.
 25 (2) *Notice to the Class*. If preliminary approval is given, notice of the proposed dismissal or
 26 compromise must be provided to all class members in such manner as the court directs. Fed. R.
 27 Civ. Proc. 23(e). Once the court approves the notice, it is sent to class members. 4 Newberg on
 Class Actions § 11:24. (3) *Fairness Hearing*. Following notice to the class members, a hearing
 is held on the proposed settlement at which proponents of and objectors to the settlement may be
 heard. *Hanlon*, 150 F.3d at 1026-27. The court then approves or disapproves of the settlement.
Id. at 1027.

1 recipients that it forwards to the Housing Authority of Contra Costa County, thereby providing
 2 a check on improper actions in the future that might affect Section 8 recipients. Agreement at
 3 ¶1c. Finally, Antioch agrees not to retaliate against Named Plaintiffs or certain family members
 4 approved to live with them. Agreement at ¶1d.

5 In addition, the Agreement provides that these provisions will be enforced under the
 6 jurisdiction of the federal court for three years, providing added protection for plaintiffs and the
 7 class. To preserve the resources of the court, the parties have agreed that disputes will be
 8 initially submitted for resolution to Magistrate Judge Corley. Agreement at ¶4.²

9 ii. The Settlement Agreement Provides Benefits to Members of the Class

10 The class members are the beneficiaries of the Settlement Agreement provisions that
 11 address the future conduct of Antioch, and thus they get the full benefit of its term over the
 12 next three years. The Court dismissed the statutory damages claim for the class under the Bane
 13 Act in its September 2, 2010 order. Docket No. 203. The Settlement does not affect the
 14 damages claims, if any, that members of the class (other than the named plaintiffs) may have, as
 15 those potential claims are not released by the settlement. Agreement at ¶8.

16 The damage awards to the five Named Plaintiffs (\$36,000 each) represent a fair
 17 compromise of their claims in light of the evidence and the risks of trial and potential appeal.
 18 Seligman Declaration at ¶ 5 .

19 iii. Further Litigation Would be Risky, Expensive and Complex

20 Antioch has entered into this Settlement without admitting any wrongdoing or liability
 21 and the court has made no findings as to liability as to Defendants City of Antioch, the Antioch
 22 Police department or any Antioch police officer. If this case does not settle, the result would be
 23 protracted litigation that would involve considerable costs and a significant investment of time
 24 by plaintiffs, defendant, and their respective counsel, and would burden the resources of this

25 ² The magistrate's determinations are subject to appeal to the Court. See N.D. Cal. Local Rule
 26 72-3.
 27

1 Court. The litigation would include additional motion practice, trial, and potential appeal. As
 2 the case seeks injunctive relief for the class, there was a risk that the case would become moot if
 3 the police department abolished the Community Action Team and ceased the disputed
 4 enforcement activities. Counsel acknowledge the risk of pursuing litigation, and believe it to be
 5 in the best interests of their respective clients to resolve this matter without further litigation.

6 *Davis v. City and County of San Francisco*, 890 F.2d 1438, 1445 (9th Cir. 1989) (district
 7 court's approval of settlement affirmed, in part, because city had risks in continuing litigation,
 8 discovery in the case was substantially complete, and a "trial on harassment issues would have
 9 been long and complex").

10 In addition, the parties have, for purposes of settlement, agreed to an amount for
 11 attorney fees and costs (\$180,000) that is markedly below the lodestar amount that plaintiffs'
 12 attorneys have incurred in the litigation to date. Due to its complexity and the size of the
 13 record, this case has been extremely time consuming and expensive, and the current lodestar for
 14 plaintiffs' attorneys is over \$3.4 million, with out of pocket costs exceeding \$100,000.
 15 Seligman Declaration at ¶ 9. Further litigation would greatly increase Defendant's already
 16 substantial potential fees liability.

17 Nothing about the posture or nature of this case indicates a certain benefit in proceeding
 18 with litigation. All the factors demonstrate the benefit of approving settlement at this stage. *In*
 19 *re Syncor ERISA Litig.*, 516 F.3d at 1101; *Class Plaintiffs*, 955 F.2d at 1276; *Officers for*
 20 *Justice*, 688 F.2d at 625.

21 iv. The Settlement Was Reached Through Fair and Non-Collusive
 22 Negotiations

23 The negotiations in this case reflect arms-length dealings and the absence of collusion.
 24 See Seligman Decl. at ¶ 3; see also 4 Newberg on Class Actions §11:42 ("An initial
 25 presumption of fairness is usually involved if the settlement is recommended by class counsel
 26 after arm's-length bargaining."). The parties aggressively litigated the case. The settlement
 27 negotiations were difficult and spanned three different settlement conferences before Judge

1 Larson as well as numerous phone calls and e-mail exchanges. Counsel at all times provided
 2 their respective clients with zealous representation. The entire Antioch City Council reviewed
 3 and approved the final agreement in a closed-session meeting on October 25, 2011.

4 v. The Attorneys Recommending Settlement Are Competent and
Experienced

5 All parties in this action were represented by experienced counsel. Plaintiffs' legal team
 6 includes very experienced attorneys with substantial experience in constitutional law and civil
 7 rights class action litigation. The public interest law firms and private counsel involved in this
 8 case shared plaintiffs' objective of ensuring that the constitutional and statutory rights of
 9 African-American Section 8 recipients would be protected. Their expertise and experience in
 10 class action litigation has enabled them to evaluate the fairness and adequacy of the Settlement.

11 b. **The Proposed Notice Comports with Due Process and Rule 23(e)**

12 The Settlement sets out the means of notice to class in compliance with Rule 23 ("Class
 13 Notice"). To satisfy due process, the manner of notice must be reasonable and conducted in a
 14 way that does not systematically leave any group without notice. *Officers for Justice*, 688 F.2d
 15 at 624; *see also* Fed. R. Civ. Proc. 23(e)(1) (The Court "must direct notice in a reasonable
 16 manner"). Counsel for Plaintiffs will seek an updated class list from the Housing Authority of
 17 Contra Costa County ("HACCC"), which has jurisdiction over Antioch Section 8 participants.
 18 Plaintiffs' counsel will combine this list with any other data sources that they currently have in
 19 their possession to create the most complete class member list possible. The actual Class
 20 Notice (which has been agreed to by the parties and is attached to the settlement agreement)
 21 provides the class members with a description of the injunctive terms of the Settlement, the
 22 right to object to the Settlement at the final approval and fairness hearing, the partial
 23 reimbursement of attorneys' fees, and the settlement amount for the Named Plaintiffs.
 24 *Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 962-963 (9th Cir. 2009) ("Settlement
 25 notices are supposed to present information about a proposed settlement neutrally, simply and
 26 understandably.").

1 Class Notice will be mailed, published and publicly posted. Specifically, Class Notice
2 will be mailed to the last known address of each class member on the updated class list.
3 Agreement at ¶9. Class Notice mailed to a Section 8 voucher holder shall be considered notice
4 for all members of his or her household. Class Notice will also be posted on the web sites for
5 the City of Antioch, the Impact Fund, and the American Civil Liberties Union. Class Notice
6 will be posted in the offices of Housing Authority of Contra Costa County and the Contra Costa
7 Department of Social Services subject to the consent of the agencies' respective directors,
8 which shall be obtained by Plaintiffs' counsel. Class Notice will be posted in the public area at
9 City Hall in a location where public or community notices are usually posted.

10 **V. CONCLUSION**

11 For the foregoing reasons, the parties respectfully request that this Court preliminarily
12 approve this Settlement and direct the implementation of the plans for Class Notice.

14 Dated: 12/16/11

15 By: /s/ Brad Seligman
16 Brad Seligman
IMPACT FUND
17 Attorneys for Plaintiffs and the Certified
Class

18 Dated: 12/15/11

19 By: 
James V. Fitzgerald, III
Thomas G. Beatty
McNAMARA, NEY, BEATTY,
SLATTERY, BORGES & AMBACHER
LLP
20 Attorneys for Defendant

1 American Civil Liberties Union Foundation
2 of Northern California
ALAN L. SCHLOSSER (SBN 49957)
aschlosser@aclunc.org
39 Drumm St.
San Francisco, CA 94111
Telephone: (415) 621-2493
Facsimile: (415) 255-8437

5
6 Lawyers' Committee For Civil Rights of the
San Francisco Bay Area
OREN M. SELLSTROM (SBN 161074)
osellstrom@lccr.com
131 Steuart St., Suite 400
8 San Francisco, CA 94105
Telephone: (415) 543-9444
9 Facsimile: (415) 543-0296

10 Public Advocates, Inc.
11 RICHARD A. MARCANTONIO (SBN
139619)
rmarcantonio@publicadvocates.org
12 131 Steuart St., Suite 300
San Francisco, CA 94105
13 Telephone: (415) 431-7430
Facsimile: (415) 431-1048

14
15 Attorneys for Plaintiffs

16 Bingham McCutchen LLP
17 FRANK KENNAMER (SBN 157844)
Three Embarcadero Center
18 San Francisco, CA 94111-4067
Telephone: 415.393.2000

19 Covington & Burling,
HAYWOOD GILLIAM, Jr. (SBN 172732)
hgilliam@covington.com
One Front St.
20 San Francisco, CA 94111
Telephone: 415.955-6530

21 Attorneys for Plaintiffs

Appendix 1

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between SANTEYA DANYELL WILLIAMS; MARY RUTH SCOTT; KAREN LATREECE COLEMAN; PRISCILLA BUNTON, and ALYCE DENISE PAYNE ("NAMED PLAINTIFFS") and others similarly situated as to injunctive relief and statutory damages pursuant to the Class Certification Order dated September 2, 2010 ("Settlement Class") (collectively "PLAINTIFFS") and the CITY OF ANTIOCH ("ANTIOCH") (collectively "PARTIES").

RECITALS

A. PLAINTIFFS filed this class action lawsuit against ANTIOCH in the United States District Court for the Northern District of California, Case No. C08-2301 SBA, alleging among other claims, intentional discrimination based on race and Section 8 status, and unintentional discrimination based on a disparate statistical impact of ANTIOCH'S Community Policing policies on African-American Section 8 subsidy recipients. PLAINTIFFS sought damages, injunctive relief, and attorneys' fees for the matters alleged in the complaint on behalf of themselves and similarly situated persons (the "Civil Action").

B. ANTIOCH denied the allegations of the Civil Action and disputed that any relief was justified maintaining that the Antioch Police Department, including the Community Action Team, was focused on responding to complaints regarding nuisance, criminal and drug activity. There was no finding of intentional discrimination against any individual ANTIOCH police officer or the Antioch Police Department in the course of the Civil Action.

C. On September 2, 2010, the Court certified, for claims of injunctive relief only, a class defined as all African-Americans who have held, currently hold, or may hold Section 8

SETTLEMENT AGREEMENT SUBJECT TO COURT APPROVAL
WILLIAMS V. CITY OF ANTIOCH, ET AL. C08-2301 SBA

housing vouchers, and all members of their households, who reside, have resided or will reside, in the City of Antioch. These injunctive relief class members are PARTIES in addition to the PLAINTIFFS and ANTIOCH. The Court also granted ANTIOCH's motion for judgment on the pleadings denying the injunctive relief class members from seeking statutory damages in the Civil Action.

D. The PARTIES have conducted sufficient discovery to allow them to fully evaluate their legal positions. PLAINTIFFS have reviewed voluminous documents and taken depositions of numerous City and police officials.

E. The PARTIES wish to resolve the Civil Action.

F. The PARTIES voluntarily and freely enter this Agreement for that purpose.

In consideration of the terms set forth below, the PARTIES, intending to be legally bound, enter into this Agreement and agree to execute this document as a full and complete release of PLAINTIFFS' claims, providing the following terms and conditions are complied with:

AGREEMENT

1. **Consideration.** In consideration of the promises contained herein, ANTIOCH agrees as follows:

1a. NAMED PLAINTIFFS will be paid the total amount of \$180,000.00 (ONE HUNDRED AND EIGHTY THOUSAND DOLLARS) within 30 days after dismissal of the Civil Action. This sum shall be divided equally among the five NAMED PLAINTIFFS.

1b. ANTIOCH agrees that it will not publicly identify African American Section 8 recipients except as allowed for in paragraph 1c. herein.

1c. ANTIOCH's Police Department agrees to send copies of any communications it sends to the Housing Authority of Contra Costa County ("HACCC") regarding complaints about identified Section 8 recipients, within 30 days of transmission to HACCC, to the Impact Fund for three years after the date of the Final Approval Order.

1d. From the date of this Agreement, ANTIOCH agrees not to retaliate against NAMED PLAINTIFFS or family members residing in the NAMED PLAINTIFFS' Section 8 household at the time of the alleged retaliation, if HACCC has been notified of the family member or, if approval is required, if HACCC has approved the family member prior to the alleged retaliation.

1e. ANTIOCH agrees not to focus on African American Section 8 recipients on either the basis of their race or Section 8 status in its Policing efforts, except when race is used as a suspect specific identifier.

2. **Definition of Settlement Class.** For purposes of this Agreement, the SETTLEMENT CLASS is defined in the same way as the class certified for litigation by the Court on September 2, 2010. That definition is:

all African-Americans who have held, currently hold, or may hold Section 8 housing vouchers, and all members of their households, who reside, have resided or will reside, in the City of Antioch.

3. **Consideration of Attorneys' Fees And Costs.** Except as provided in paragraph 11 below, each of the PARTIES will bear their own attorneys' fees and costs.

4. **Dismissal and Continuing Jurisdiction.** PLAINTIFFS will dismiss this Civil Action with prejudice within 30 days of the Final Approval Order. The Court will retain jurisdiction to enforce this Agreement for three years following the Final Approval Order. Magistrate Judge Corley will be appointed under FRCP 53 to act as a Magistrate Judge to consider claims of violations of the Agreement.

5. **No Admission of Liability.** The PARTIES acknowledge and agree that this Agreement and compliance with this Agreement shall not constitute or be construed as an admission of liability or fault by ANTIOCH or any of ANTIOCH'S employees. The PARTIES further acknowledge that ANTIOCH disputes PLAINTIFFS' allegations and that this Agreement is made by ANTIOCH to avoid the cost of litigation.

6. **No Pending Litigation.** PLAINTIFFS represent that, other than the Civil Action, they do not presently have on file any complaints, grievances, charges or claims against ANTIOCH or any other employee of the CITY OF ANTIOCH.

7. **Release By Named Plaintiffs;** In return and in consideration of the promises contained herein, NAMED PLAINTIFFS release, and absolutely and forever discharge ANTIOCH and its predecessors, successors, assigns, and each past or present official, employee, agent, representative, officer, and any other person or firm who, previously or hereinafter, is affiliated in any manner with any of the above ("RELEASEES"), from any and all claims, demands, causes of action, obligations, liens, expenses, costs, damages, attorneys' fees, claims for injunctive and declaratory relief and liabilities which NAMED PLAINTIFFS ever had, now have, or may hereinafter have, against any of them by reason of any act, cause, matter or event whatsoever to the date of this Agreement, whether known or unknown, arising directly or indirectly out of or in any way connected with, or based upon, or in any way related to, the

subject matter of the Civil Action. NAMED PLAINTIFFS agree to defend, indemnify and hold harmless RELEASEES against any and all lien claims against NAMED PLAINTIFFS by health care providers, hospitals, clinics, EMS first responders, health maintenance organizations, workers compensation carriers, or agents/entities retained on their behalf to recoup medical costs, respecting any services, payments, benefits, compensation or indemnification of any kind related in any way to injuries suffered or incurred by NAMED PLAINTIFFS arising directly or indirectly out of or in any way connected with, or based upon or in any way related to, the subject matter of the Civil Action.

8. Release by Settlement Class Members.

- a. The members of the SETTLEMENT CLASS release all claims for classwide injunctive and declaratory relief that the members of the SETTLEMENT CLASS may have against ANTIOCH arising from the Civil Action.
- b. The members of the SETTLEMENT CLASS who are not NAMED PLAINTIFFS do not release any claims for individual monetary relief, including, civil penalties, compensatory or punitive damages that were or may have been asserted in this case.

9. Notice to Class. In compliance with Federal Rule of Civil Procedure 23, the PARTIES agree to the following notice plan:

- a. Updated Class List: The PLAINTIFFS will request and obtain an updated list of Section 8 recipients living in Antioch from the Housing Authority of Contra Costa County no less than 30 days prior to submission of the Agreement for preliminary approval. The PLAINTIFFS will combine this list with any other data sources that they currently have in their possession to create the most complete class member list possible.

b. Notice - Class Notice shall be provided to the Class List in a form approved by the Court. The Parties' proposed Notice is attached hereto as Exhibit A. The Notice provides class members with a description of the injunctive terms of the Agreement, the right to object to the Agreement at the Final Approval and Fairness Hearing, the request for attorneys' fees, and the settlement amounts for the NAMED PLAINTIFFS.

c. Notice Plan -

1. Class Notice will be distributed and posted in the manner set forth below not later than 14 days after entry of the Court's Preliminary Approval Order.
 2. Class Notice will be posted in the public area at City Hall in a location where public or community notices are usually posted.
 3. Class Notice will be posted on the web site for the City of Antioch.
 4. Class Notice will be posted in the offices of the Housing Authority of Contra Costa County and the Contra Costa Department of Social Services subject to the consent of the agencies' respective directors, which shall be obtained by PLAINTIFFS.
 5. This Settlement Agreement and Class Notice will be posted on the websites for the Impact Fund and the ACLU.
 6. Class Notice will be mailed to the last known address of each class member on the Updated Class List.
 7. Notice mailed to a Section 8 voucher holder shall be considered notice for all members of his or her household.
- d. Costs of Notice - ANTIOCH shall pay the costs of Class Notice up to Two Thousand Dollars (\$2000).

**SETTLEMENT AGREEMENT SUBJECT TO COURT APPROVAL
WILLIAMS V. CITY OF ANTIOCH, ET AL. C08-2301 SBA**

10. Settlement Fairness Process.

- a. **Preliminary Approval** - The parties will submit this Agreement to the Court and request preliminary approval of its terms and approval of the Notice Plan. The parties will request that the Court enter a Preliminary Approval Order, substantially in the form of Exhibit B.
- b. **Class Notice** - Class Notice will be distributed and posted in the manner set forth in this Agreement not later than 14 days after entry of the Court's Preliminary Approval Order.
- c. **Class Member Objections** - Any SETTLEMENT CLASS member who wishes to object to this Agreement or otherwise be heard concerning this settlement shall timely inform Class Counsel, Counsel for ANTIOCH and the Court in writing of his or her intent to object and/or appear at the Final Approval and Fairness Hearing by following the procedures set forth in the Class Notice. The deadline for objections shall be set by the Court.
- d. **Final Approval and Fairness Hearing** – The Court shall hold the Final Approval and Fairness Hearing on the date established in the Notice. The PARTIES shall request that, if the Court approves the Agreement at the Final Approval and Fairness hearing, it enter the Final Approval Order in the form proposed as Exhibit C and the Final Judgment in the form proposed as Exhibit D.

11. Attorneys' Fees and Costs. – The total amount of \$180,000.00 (ONE HUNDRED AND EIGHTY THOUSAND DOLLARS) shall be payable to the NAMED PLAINTIFFS' attorneys of record, as full consideration for any and all attorney's fees and costs

incurred in this matter, within 30 days after dismissal of the Civil Action. Payment to be made per instructions by counsel for The Impact Fund.

12. **Defense.** This Agreement may be pled as a full and complete defense to any subsequent action or other proceeding involving any person or party, which arises out of, relates to, or has anything to do with, the rights and claims waived, released and discharged by this Agreement. This provision expressly excludes any claim for civil penalties or other damage claims brought by or on behalf of any class member other than the NAMED PLAINTIFFS.

13. **No Assignment By PLAINTIFFS.** NAMED PLAINTIFFS represent and warrant that they have not heretofore assigned or transferred or purported to assign or transfer, to any person or entity, a claim, debt, liability demand, obligation, cost, attorneys' fees, expense, action or cause of action herein released. NAMED PLAINTIFFS further agree to indemnify, hold harmless, and defend RELEASEES from any and all claims, debts, liens, liabilities, or demands, obligations, attorneys' fees, costs, expenses, action or cause of action which are in any way based on, arising out of, or in connection with any such transfer or assignment, including all actual attorneys' fees and costs in connection therewith.

14. **Binding Effect.** This Agreement shall be binding upon and for the benefit of the PARTIES hereto and their respective heirs, successors, predecessors, devisees, administrators, executors, affiliates, representatives, assigns, and their respective agents and employees, partners, members and representatives, wherever the context requires or admits, both jointly and individually.

15. **Advice Of Counsel.** The PARTIES, and each of them, acknowledge that they have been competently represented by counsel of their own choosing in the negotiations for, and the preparing of this Agreement, that they have read the Agreement or had it read to them by

their counsel, that they are fully aware of its contents and of its legal effect, and that each party enters into this Agreement freely, without coercion, based on the PARTIES' own judgment and not in reliance upon any representations or promises made by the other party. The PARTIES, and each of them, expressly waive any and all claims, charges, complaints, actions and causes of action against any other party arising out of or in any way associated with the negotiation, preparation, or execution of this Agreement.

16. **Complete and Final Agreement.** Subject to the approval of the Court of this Agreement, this Agreement contains all of the agreement, conditions, promises and covenants between the PARTIES and supersedes all prior or contemporaneous agreements, representations or understandings with respect to the subject matter of the present agreement.

17. **Assumption of Risk.** The PARTIES, and each of them, hereby expressly assume the risk of any mistake of fact or law, or both, or that the true facts or laws might be other or different from facts and laws now known or believed to exist. Each party to this Agreement acknowledges that it has made such investigation of the facts pertaining to this Agreement as each deems necessary, and in entering into this Agreement, each party assumes the risk of mistake with respect to such facts.

18. **Voluntary Agreement.** The PARTIES agree that this Agreement constitutes the entire agreement between the PARTIES and it is expressly understood and agreed that the Agreement has been freely and voluntarily entered into by the PARTIES with the advice of counsel, who have explained the legal effect of this Agreement. The PARTIES further acknowledge that no warranties or representations or inducements not contained in this Agreement have been made on any subject in connection with this Agreement, and that they have not been induced to execute this Agreement by reason of nondisclosure or suppression of

any fact. Except as directed or ordered by the Court, this Agreement may not be altered, modified or otherwise changed in any respect except by writing, duly executed by all of the PARTIES or their authorized representatives.

19. **Governing Law.** The terms, conditions and covenants of this Agreement shall be interpreted under the laws of the State of California.

20. **Waiver of California Civil Code Section 1542.** The PARTIES in this Agreement intend this Agreement to be a full and general release as to the subject matter described above, and they hereby mutually waive all claims or benefits that they now have, or in the future may have under the provisions of section 1542 of the California Civil Code, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The PARTIES to this Agreement, having been apprised of the statutory language of Civil Code Section 1542 by their attorneys, and each fully understanding the same, nevertheless elect to waive the benefits of any and all rights any of them may have pursuant to the provisions of Civil Code Section 1542. The PARTIES to this Agreement understand that if the facts with respect to which this Agreement is executed are found hereinafter to be different from the facts now believed by any of them to be true, that this Agreement shall be effective notwithstanding such material difference. This waiver does not apply to nor affect the rights of SETTLEMENT CLASS Members.

21. **Neutral Interpretation.** PLAINTIFFS, their counsel, and ANTIOCH, and its counsel, have cooperated in the preparation of this Agreement, and this Agreement therefore shall not be construed against any party.

**SETTLEMENT AGREEMENT SUBJECT TO COURT APPROVAL
WILLIAMS V. CITY OF ANTIOCH, ET AL. C08-2301 SBA**

22. **Warranty Of Authority.** Each of the undersigned individuals represents and warrants to each of the other PARTIES and such other PARTIES' attorneys that (a) he, she or it has full right, power and authority to bind the party on behalf of which he, she or it is executing this Agreement in a representative capacity, to all of the terms of this Agreement, and that (b) no consent of any other person is required by any party to this Agreement as a condition to such party being bound by this Agreement (or that such consent has been obtained). Authority to bind the Settlement Class is expressly conditioned on approval of the Court as required by Federal Rule of Civil Procedure 23(e).

23. **Counterparts.** This Agreement may be signed in counterparts and shall be binding and effective immediately upon the execution by all PARTIES of one or more counterparts.

24. **Enforceability.** The provisions of this Agreement are contractual in nature and not merely recitals, and shall be considered independent and severable, and if any such provision or any part thereof shall at any time be held invalid, in whole or in part, under any federal, state, county, municipal or other law, ruling or regulation, then such provision or part thereof shall remain in force and effect to the extent permitted by law, the remaining provisions of this Agreement shall also remain in full force and effect, and enforceable.

I HAVE READ THE ENTIRE CONTENTS OF THIS AGREEMENT BEFORE SIGNING IT
AND HAVE BEEN PROVIDED WITH A COPY FOR MY RECORDS.

PLAINTIFFS

DATED: 10-25-, 2011

Santoya Williams
Plaintiff Santoya Danyell Williams

DATED: 10-25, 2011

Mary Ruth Scott
Plaintiff Mary Ruth Scott

DATED: 10-25-, 2011

Karen Coleman
Plaintiff Karen Latreece Coleman

DATED: 10-25, 2011

Priscilla Buntor
Plaintiff Priscilla Buntor

DATED: 10-25-2011, 2011

Alyce Denise Payne
Plaintiff Alyce Denise Payne

DEFENDANT

DATED: 11/17, 2011

City of Antioch
Defendant City of Antioch

APPROVED AS TO FORM:

DATED: 12/28, 2011

The Impact Fund
Brad Seligman, Esq.
Attorneys for Plaintiffs and the Certified Class

DATED: 11/17, 2011

McNamara, Ney, Beatty, Slattery, Berges &
Ambacher LLP
James V. Fitzgerald, III
Attorneys for Defendant

SETTLEMENT AGREEMENT SUBJECT TO COURT APPROVAL
WILLIAMS V. CITY OF ANTIOCH, ET AL. C08-2301 SBA

1 *(Counsel listed on next page)*

2

3

4

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

6

7 SANTEYA DANYELL WILLIAMS, MARY
RUTH SCOTT, KAREN LATREECE
8 COLEMAN, PRISCILLA BUNTON, and
ALYCE DENISE PAYNE, on behalf of
9 themselves and all others similarly situated,

No. C-08-2301 SBA

[PROPOSED] JUDGMENT

10 Plaintiffs,

V.

CITY OF ANTIOCH.

Defendant.

13

14

15

16

17

18

19

20

21

22

23

24

25

20

27

28

NO.: C-08-2301 SBA

[PROPOSED] JUDGMENT

1 Impact Fund
2 BRAD SELIGMAN (SBN 083838)
bseligman@impactfund.org
3 JOCELYN D. LARKIN (SBN 110817)
125 University Avenue, Suite 102
4 Berkeley, CA 94710
Telephone: 510.845.3473
5 Facsimile: 510.845.3654
6 Bingham McCutchen LLP
FRANK B. KENNAMER (SBN 157844)
7 Three Embarcadero Center
San Francisco, CA 94111
8 Telephone: 415.393.2000
Facsimile: 415.393.2286
9
10 Lawyers' Committee For Civil Rights
of the San Francisco Bay Area
11 OREN M. SELLSTROM (SBN 161074)
131 Steuart Street, Suite 400
12 San Francisco, CA 94105
Telephone: 415.543.9444
13
14 American Civil Liberties Union
Foundation of Northern California
15 ALAN L. SCHLOSSER (SBN 49957)
39 Drumm Street
San Francisco, CA 94111
16 Telephone: 415.621.2493
17 Public Advocates, Inc.
RICHARD A. MARCANTONIO (SBN 139619)
18 131 Steuart Street, Suite 300
San Francisco, CA 94105
19 Telephone: 415.431.7430
20 Covington & Burling LLP
HAYWOOD S. GILLIAM, JR. (SBN 172732)
21 hgilham@cov.com
One Front Street
22 San Francisco, CA 94111
Telephone: 415.591.6000
23 Facsimile: 415.591.6091
24 Attorneys for Plaintiffs and Certified Class
25
26
27
28

McNamara, Ney, Beatty, Slattery,
Borges & Ambacher
THOMAS G. BEATTY (SBN 75794)
JAMES V. FITZGERALD, III (SBN
55632)
1211 Newell Avenue, P.O. Box 5288
Walnut Creek, CA 94596
Telephone: 925.939.5530
Facsimile: 925.939.0203
Attorneys for Defendant
CITY OF ANTIOCH

1

2 WHEREAS, on _____, 2011, this Court granted preliminary approval of a
3 settlement of this action, embodied in the Settlement Agreement, attached as Exhibit 1 to this
4 Court's _____, 2011 Order Granting Preliminary Approval of Settlement;

5

6 WHEREAS, on _____, 2011, the Court granted final approval of the settlement,
7 finding that the settlement is fair, reasonable and adequate within the meaning of Fed. R. Civ. P.
8 23(e) and applicable law;

9

10 WHEREAS, the Court has found that the notice sent to the Class Members fairly and
11 adequately informed the Class of the terms of the settlement, was consistent with Fed. R. Civ. P.
12 23(e) and due process, and was given in the manner prescribed by the Settlement Agreement and
13 the Court's order preliminarily approving the settlement:

14

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

15

16 1. In accordance with the Settlement Agreement, attached as Exhibit 1 to the
17 _____, 2011, Order Granting Preliminary Approval of Settlement, this Court hereby enters
18 final judgment in this action, and dismisses this action with prejudice.

19

20 2. The Court retains jurisdiction to enforce the settlement for three years following
21 the entry of the Final Approval Order. The Court appoints Magistrate Judge Corley under Fed.
22 R. Civ. P. 53 to act as a Magistrate Judge to consider claims of violations of the Agreement.

23

IT IS SO ORDERED

24

25

26

Hon. Sandra Brown Armstrong
United States District Court, Northern District of California

27

28

1 *(Counsel listed on next page)*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

7 SANTEYA DANYELL WILLIAMS, MARY
RUTH SCOTT, KAREN LATREECE
8 COLEMAN, PRISCILLA BUNTON, and
ALYCE DENISE PAYNE, on behalf of
9 themselves and all others similarly situated,

10 Plaintiffs,
11 v.
12 CITY OF ANTIOCH,
13 Defendant

No. C-08-2301 SBA

**[PROPOSED] ORDER RE JOINT
NOTICE OF MOTION AND MOTION
FOR ORDER:**

- (1) GRANTING PRELIMINARY APPROVAL OF SETTLEMENT;**
 - (2) APPROVING CLASS NOTICE AND RELATED MATERIALS; AND**
 - (3) SCHEDULING FAIRNESS AND FINAL APPROVAL HEARING**

Date: _____, 2011

Time: _____ .m.

Courtroom: The Hon. Sandra Brown
Armstrong

NO.: C-08-2301 SBA

1 Impact Fund
2 BRAD SELIGMAN (SBN 083838)
bseligman@impactfund.org
3 JOCELYN D. LARKIN (SBN 110817)
125 University Avenue, Suite 102
4 Berkeley, CA 94710
Telephone: 510.845.3473
5 Facsimile: 510.845.3654
6 Bingham McCutchen LLP
FRANK B. KENNAMER (SBN 157844)
7 Three Embarcadero Center
San Francisco, CA 94111
8 Telephone: 415.393.2000
Facsimile: 415.393.2286
9
10 Lawyers' Committee For Civil Rights
of the San Francisco Bay Area
11 OREN M. SELLSTROM (SBN 161074)
131 Steuart Street, Suite 400
12 San Francisco, CA 94105
Telephone: 415.543.9444
13
14 American Civil Liberties Union
Foundation of Northern California
15 ALAN L. SCHLOSSER (SBN 49957)
39 Drumm Street
San Francisco, CA 94111
16 Telephone: 415.621.2493
17 Public Advocates, Inc.
RICHARD A. MARCANTONIO (SBN 139619)
18 131 Steuart Street, Suite 300
San Francisco, CA 94105
19 Telephone: 415.431.7430
20 Covington & Burling LLP
HAYWOOD S. GILLIAM, JR. (SBN 172732)
21 hgilham@cov.com
One Front Street
22 San Francisco, CA 94111
Telephone: 415.591.6000
23 Facsimile: 415.591.6091
24 Attorneys for Plaintiffs and Certified Class
25
26
27
28

McNamara, Ney, Beatty, Slattery,
Borges & Ambacher
THOMAS G. BEATTY (SBN 75794)
JAMES V. FITZGERALD, III (SBN
55632)
1211 Newell Avenue, P.O. Box 5288
Walnut Creek, CA 94596
Telephone: 925.939.5530
Facsimile: 925.939.0203

Attorneys for Defendant
CITY OF ANTIOCH

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

The parties have conditionally agreed to a proposed settlement. It appears to the Court that the proposed Settlement Agreement is the result of arm's length negotiations between the parties with the assistance of a third-party neutral mediator. After reviewing the terms of the proposed settlement in the context of the record in this action and the controlling legal authority, the Court finds that the proposed Settlement Agreement is sufficiently fair, reasonable, adequate, and consistent with relevant state and federal law, to warrant notice thereof to Class members and a full hearing thereon.

IT IS THEREFORE ORDERED THAT:

1. The Settlement Agreement attached hereto as Exhibit A hereto is hereby preliminarily approved. Final approval and entry of the Settlement Agreement is subject to the hearing of any objections to the Settlement.

2. Pending the determination of the fairness of the Settlement Agreement, all further litigation of the case is stayed.

3. The Notice of Settlement attached hereto as Exhibit B is approved and shall be distributed to the class in accordance with the notice plan as set forth in Section 9 of the Settlement Agreement, entitled "Notice to Class." All written objections must be received by class counsel no later than ten days before the fairness hearing, and filed with the court by class counsel no later than seven days before the fairness hearing.

4. A Fairness Hearing for Final Approval of the Settlement shall be set for _____ 2011 at _____.m. in this Courtroom. Not less than seven (7) days prior to the Final Approval Hearing, Class Counsel will submit their Request For Final Approval of the

1 Settlement.

2

3 **IT IS SO ORDERED**

4

5

6 Dated this ____ day of _____, 2011.

7

8

9 Hon. Sandra Brown Armstrong
10 United States District Court, Northern District of California

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 *(Counsel listed on next page)*

2

3

4

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

6

7 SANTEYA DANYELL WILLIAMS, MARY
RUTH SCOTT, KAREN LATREECE
8 COLEMAN, PRISCILLA BUNTON, and
ALYCE DENISE PAYNE, on behalf of
9 themselves and all others similarly situated,

No. C-08-2301 SBA

10 Plaintiffs.

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF SETTLEMENT**

v.

Date: _____, 2011

Time: _____ .m.

CITY OF ANTIOCH,

Courtroom: The Hon. Sandra Brown
Armstrong

Defendant.

13

14

15

16

17

18

19

20

21

22

23

2

25

NO : C-08-2301 SBA

[PROPOSED] ORDER RE FINAL APPROVAL OF SETTLEMENT

1 Impact Fund
2 BRAD SELIGMAN (SBN 083838)
bseligman@impactfund.org
3 JOCELYN D. LARKIN (SBN 110817)
125 University Avenue, Suite 102
4 Berkeley, CA 94710
Telephone: 510.845.3473
5 Facsimile: 510.845.3654
6 Bingham McCutchen LLP
FRANK B. KENNAMER (SBN 157844)
7 Three Embarcadero Center
San Francisco, CA 94111
8 Telephone: 415.393.2000
Facsimile: 415.393.2286
9
10 Lawyers' Committee For Civil Rights
of the San Francisco Bay Area
11 OREN M. SELLSTROM (SBN 161074)
131 Steuart Street, Suite 400
12 San Francisco, CA 94105
Telephone: 415.543.9444
13
14 American Civil Liberties Union
Foundation of Northern California
15 ALAN L. SCHLOSSER (SBN 49957)
39 Drumm Street
San Francisco, CA 94111
16 Telephone: 415.621.2493
17 Public Advocates, Inc.
RICHARD A. MARCANTONIO (SBN 139619)
18 131 Steuart Street, Suite 300
San Francisco, CA 94105
19 Telephone: 415.431.7430
20 Covington & Burling LLP
HAYWOOD S. GILLIAM, JR. (SBN 172732)
21 hgilham@cov.com
One Front Street
22 San Francisco, CA 94111
Telephone: 415.591.6000
23 Facsimile: 415.591.6091
24 Attorneys for Plaintiffs and Certified Class
25
26
27
28

1

2

3

4

5

6

The parties have made an unopposed application for final approval of the Settlement
Agreement which this Court preliminarily approved on _____, 2011. The Court has read and
carefully considered the Agreement and the exhibits appended thereto (attached hereto as Exhibit
1), as well as the briefs and arguments of counsel.

7

IT IS THEREFORE ORDERED THAT:

8

1. This Court has jurisdiction over the subject matter of this action and all matters
relating thereto, and over all parties to this action.

10

11

12

13

14

2. The Notice given to class members pursuant to this Court's Order Granting
Preliminary Approval constituted the best notice practicable under the circumstances, was
accomplished in all material respects, and fully met the requirements of Fed. R. Civ. P. 23(e) and
due process.

15

16

17

18

19

20

21

22

23

3. Pursuant to Fed. R. Civ. P. 23(e), this Court grants final approval to the
Settlement Agreement and the settlement set forth therein, and orders the parties to implement,
and comply with, its terms. The Court finds that the Settlement is fair, reasonable, and adequate
in all respects. The Court specifically finds that settlement is rationally related to the strength of
plaintiffs' claims given the risk, expense, complexity, and duration of further litigation. This
Court also finds that the Settlement Agreement is the result of arms'-length negotiation between
experienced counsel representing the interests of the class and defendants, after thorough factual
and legal investigation. There was no finding of intentional discrimination in this lawsuit.

24

25

26

27

28

4. This action is hereby dismissed with prejudice, each party to bear its own
attorneys' fees and costs, except as provided by the Agreement and the Court's orders.

1 5. The Court retains jurisdiction to enforce this Agreement for three years following
2 the entry of this Final Approval Order. The Court appoints Magistrate Judge Corley under Fed.
3 R. Civ. P. 53 to act as a Magistrate Judge to consider claims of violations of the Agreement.
4

5 **IT IS SO ORDERED**
6

7

8 Dated this ____ day of _____, 2011.
9

10

11

Hon. Sandra Brown Armstrong
United States District Court, Northern District of California

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 | Impact Fund
2 | BRAD SELIGMAN (SBN 083838)
bseligman@impactfund.org
3 | JOCELYN D. LARKIN (SBN 110817)
125 University Avenue, Suite 102
Berkeley, CA 94710
4 | Telephone: 510.845.3473
Facsimile: 510.845.3654
5 |
Bingham McCutchen LLP
6 | FRANK B. KENNAMER (SBN 157844)
Three Embarcadero Center
7 | San Francisco, CA 94111
Telephone: 415.393.2000
8 | Facsimile: 415.393.2286
9 | Attorneys for Plaintiffs and Certified Class

10 | **[Additional Counsel Listed on Page 2]**

11 |

12 |

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

14 |

15 |

SANTEYA DANYELL WILLIAMS, MARY
RUTH SCOTT, KAREN LATREECE
COLEMAN, PRISCILLA BUNTON, and
ALYCE DENISE PAYNE, on behalf of
themselves and all others similarly situated,

18 |

Plaintiffs,

19 | v.

20 | CITY OF ANTIOCH,

21 | Defendant.

22 |

23 |

24 |

25 |

26 |

27 |

28 |

McNamara, Ney, Beatty, Slattery,
Borges & Ambacher
THOMAS G. BEATTY (SBN 75794)
JAMES V. FITZGERALD, III (SBN
55632)
1211 Newell Avenue, P.O. Box 5288
Walnut Creek, CA 94596
Telephone: 925.939.5530
Facsimile: 925.939.0203

Attorneys for Defendant
CITY OF ANTIOCH

No. C-08-2301 SBA

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

NO.: C-08-2301 SBA

IMPORTANT: PLEASE READ CAREFULLY

3 To: All African-Americans who have held or currently hold Section 8 housing vouchers in the City of Antioch:

This Notice is being given by Order of the Court to individuals who may be members of
a class of current and former African-American Section 8 households affected by the settlement
of a class action lawsuit called Williams, et al. v. City of Antioch, et al., Case Number C08-2301
SBA (U.S. District Court, Northern District of California).

9 The lawsuit claims that the City of Antioch and its Police Department discriminated
10 against African-American Section 8 families based on their race and Section 8 status. The City of
11 Antioch has denied all wrongdoing. There was no finding of intentional discrimination in this
12 lawsuit.

13 The District Court has scheduled a hearing to consider the settlement on _____
14 at _____.m. in Courtroom ___, at the United States District Court, United States Courthouse, 450
15 Golden Gate Avenue, San Francisco, California 94102.
16

This hearing is referred to as the settlement hearing or the fairness hearing. If the district court approves this settlement, all claims by class members against the City of Antioch for injunctive relief based on claims of discriminatory policing by the Antioch Police Department will be finally resolved in accordance with the terms of the settlement. However, the court's approval of this settlement will not affect the right of class members, other than the five named plaintiffs, to assert claims for damages against the City.

24 The purpose of this notice is to inform you of:

- The nature of the lawsuit, and who is a member of the class;
 - Your right to object to the settlement;
 - A description of the terms of the proposed settlement; and

- How to find out more information about the proposed settlement.

THE LAWSUIT AND THE CLASS

The lawsuit was filed as a class action in July 2008 by five African-American women participating in the Section 8 Housing Choice Voucher program. The lawsuit claims that the City of Antioch and its Police Department discriminated against African-American Section 8 families based on their race and Section 8 status. The plaintiffs sought damages, injunctive relief, and attorneys' fees.

On September 2, 2010, the Court ruled that the claims for injunctive relief could go forward on behalf of a class defined as “all African-Americans who have held, currently hold, or may hold Section 8 housing vouchers, and all members of their households, who reside, have resided or will reside, in the City of Antioch.” The Court also ruled, however, that the named plaintiffs could not seek damages on behalf of the other class members.

The Court's order designated the following lawyers to serve as counsel to the class (“Class Counsel”) in this action:

Impact Fund
BRAD SELIGMAN (SBN 083838)
bseligman@impactfund.org
JOCELYN D. LARKIN (SBN 110817)
125 University Avenue, Suite 102
Berkeley, CA 94710
Telephone: 510.845.3473

American Civil Liberties Union
Foundation of Northern California
ALAN L. SCHLOSSER (SBN 49957)
39 Drumm Street
San Francisco, CA 94111
Telephone: 415.621.2493

Lawyers' Committee For Civil Rights
of the San Francisco Bay Area
OREN M. SELLSTROM (SBN 161074)
131 Steuart Street, Suite 400
San Francisco, CA 94105
Telephone: 415.543.9444

Public Advocates, Inc.
RICHARD A. MARCANTONIO (SBN
139619)
131 Steuart Street, Suite 300
San Francisco, CA 94105
Telephone: 415.431.7430

Bingham McCutchen LLP
FRANK B. KENNAMER (SBN 157844)
abigail.slonecker@bingham.com
Three Embarcadero Center

Covington & Burling LLP
HAYWOOD S. GILLIAM, JR. (SBN
172732)
hgiliam@cov.com

1 San Francisco, CA 94111
Telephone: 415.393.2000
2 Facsimile: 415.393.2286

One Front Street
San Francisco, CA 94111
Telephone: 415.591.6000
Facsimile: 415.591.6091

4 The Court's order appointed named plaintiffs Santeya Danyell Williams, Mary Ruth
5 Scott, Karen Latreece Coleman, Priscilla Bunton, and Alyce Denise Payne to serve as Class
6 Representatives.

WHAT ARE YOUR RIGHTS AS A CLASS MEMBER?

9 You do not need to do anything if you are satisfied with the settlement. If you are
10 dissatisfied with any terms of the proposed settlement described below, you may comment or
11 object to the settlement. If you wish to have your comments or objections considered at the
12 settlement fairness hearing, you must send your comments or objection in writing, on or before
13 to Class Counsel and counsel for the City of Antioch at:

14 The Impact Fund McNamara, Ney, Beatty, Slattery, Borges & Ambacher
15 125 University Ave., Suite 102 and Attn. James V. Fitzgerald, III
16 Berkeley, California 94710 1211 Newell Avenue, P.O. Box 5288
Walnut Creek, CA 94596

If you do not make your objections by that date, you will lose the right to object. Both the envelope and your comments or objection should include the name of the case and the case number. If you do so comment or object, you also have the right to appear personally or through an attorney at the settlement hearing to present your comments or objection to the Court. Except with special permission of the Court, you will not be permitted to object or comment at the hearing if your comments or objection are not received in writing by .

If, after the fairness hearing, the Court rejects the settlement, it will be voided and litigation of the case will continue. However, if that happens, there is no assurance: (a) that any decision at trial would be in favor of class members; (b) that a favorable trial decision, if any,

1 would be as favorable to the class members as this settlement; or (c) that any such favorable trial
2 decision would be upheld if any appeal was filed.

3 **DESCRIPTION OF THE PROPOSED SETTLEMENT**

4 The Settlement Agreement provides, in summary, that:

- 5
- 6 1. The City of Antioch will not publicly identify African American Section 8 recipients
7 (except as allowed for in the next paragraph).
 - 8 2. APD will send copies of any communications it sends to the Housing Authority of
9 Contra Costa County regarding complaints about identified Section 8 recipients to the
10 Impact Fund for three years.
 - 11 3. The City of Antioch will not retaliate against the five named Plaintiffs or their family
12 members approved to live in their household by the Housing Authority.
 - 13 4. The City of Antioch will not focus on African American Section 8 recipients on either
14 the basis of their race or Section 8 status in its policing efforts, except when race is used
15 specifically to identify a suspect.
 - 16 5. The Plaintiffs will dismiss this case within 30 days after the Court approves the
17 settlement.
 - 18 6. The Court will retain jurisdiction to enforce this Agreement for three years.
 - 19 7. The City of Antioch will pay \$180,000.00, to be divided equally among the five named
20 Plaintiffs.
 - 21 8. The City of Antioch will pay \$180,000.00 for costs and attorneys' fees of Plaintiffs'
22 lawyers.
 - 23 9. Plaintiffs release and settle all of their claims against the City. Class members release
24 class claims for injunctive relief but do not release any claims for damages.

HOW TO GET MORE INFORMATION ABOUT THE SETTLEMENT

If you have questions about the proposed settlement agreement, or would like to obtain a copy of it, you may contact the lawyers who represent the class, at the address below:

The Impact Fund
125 University Ave., suite 102
Berkeley, California 94710

(510)845-3473, ext. 308

There will be no charge.

Do not contact the district court or the judge.

Clerk of the Court
United States District Court- Northern District of California